IN THE HIGH COURT OF JUDICATURE OF
ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MRS. JUSTICE T.MEENA KUMARI
AND
THE HON'BLE MR. JUSTICE G.CHANDRAIAH

WRIT PETITION NO. 23792 OF 2007

Dated : November 12, 2007

Between:

K.Srinivas and others

Petitioners

AND

The Secretary (Irrigation),
Government of Andhra Pradesh,
A.P. Secretariat, Hyderabad and another.

Respondents

THE HON'BLE MRS. JUSTICE T.MEENA KUMARI
AND
THE HON'BLE MR. JUSTICE G.CHANDRAIAH

WRIT PETITION NO. 23792 OF 2007

ORAL ORDER: **(per THE HON'BLE MRS. JUSTICE T.MEENA KUMARI)**

Seeking a writ of certiorari to call for the records

relating to the order dated 06.08.2007 passed in O.A. No. 560 of 2007 on the file of the Andhra Pradesh Administrative Tribunal, Hyderabad, confirming the provisional seniority list of the Assistant Executive Engineers in Zone V and VI vide Memo No. RC/ENC/D1/24018/89 dated 24.1.2007 to the extent of petitioners and to quash the same by declaring it arbitrary and contrary to the provisions of A.P. State & Subordinate Service Rules, 1996, the petitioners filed this writ petition.

The petitioners herein filed the above O.A. before the Tribunal assailing Memo No. Memo No. RC/ENC/D1/24018/89 dated 24.1.2007, by which the petitioners were called to submit their objections, if any, about the seniority list prepared for those who were appointed after 1981 and who passed the Accounts Tests for PWD Officers and Subordinate Officers belatedly, in terms of Government Memo No. 8477/Ser.1(2)/2006-9 I & CAD Department, dated 20.1.2007 and consequently to re-fix their seniority by taking into consideration the respective seniority of the petitioners from the date of appointment as Assistant Executive Engineers by the A.P. Public Service Commission.

The facts, in brief, are that the petitioners were appointed as Assistant Executive Engineers on being selected by the A.P. Public Service Commission and joined in the year 1992. The 1st and 2nd petitioner are

working in Zone VI while the 3rd petitioner is working in Zone V. Subsequently, the 1st and 3rd petitioner passed Accounts Test in the year 1997 while the 2nd petitioner passed the same in the year 1995. While so, the first respondent issued the impugned Memo fixing the seniority of the candidates from the date of their passing of Accounts Test for PWD Officers and Subordinate Officers and fixed the revised date of commencement of probation as per Rule 16(h) of the A.P. Subordinate Service Rules, 1996.

Assailing the same, the petitioner filed the above O.A. contending that the respondents have no jurisdiction or authority to re-fix the seniority basing upon the date of passing the examination in Accounts Test. It is also their case that even the appointment order does not communicate the requirement of passing the Accounts Test and they were put on probation from the date of their respective appointments.

The Tribunal, clubbing this O.A. with other Batch of O.As., dismissed the applications holding that the issues raised before the Tribunal can, as well, be raised before the Authorities submitting their objections to the provisions Seniority List and unless a final seniority list is prepared, the petitioner and others cannot have cause of action and ultimately dismissed all the O.As. Hence, this writ petition, by the petitioners.

It is contended on behalf of the petitioners that Rule 16(h) is applicable only when the period of probation is extended by the Government, in relaxation to the Rules, and it is not applicable to the petitioners' case, inasmuch as their probation period was not extended and, therefore, the impugned Memo issued by the Government is illegal. It is also contended on behalf of the petitioners that the Tribunal without deciding the said issue, dismissed the O.A. clubbing the same with batch of other O.As. involving the issue of provisional seniority list and dismissed the O.A. on erroneous grounds without going into merits of the case.

As can be seen from the impugned order, the Tribunal did not advert to the contentions of the petitioners that whether the respondents have got jurisdiction or authority to re-fix the seniority basing upon the date of their passing of Accounts Test for PWD Officer and Subordinate Officers and to re-fix the revised date of commencement of probation as per Rule 16(h) of the A.P. State and Subordinate Service Rules irrespective of the ranking assigned by the A.P. Public Service Commission, more particularly when their period of probation is not extended and, therefore, the provisional seniority list issued by the 2nd respondent dated 24.1.2007 is contrary to law. The Tribunal has dealt with this matter clubbing the same into a batch of O.As., which were filed questioning

the extension of probation.

Therefore, without adverting to the merits or otherwise of the contentious issues raised in this writ petition, we feel it appropriate to set aside the order dated 06.08.2007 passed in O.A. No. 560 of 2007 by the Andhra Pradesh Administrative Tribunal, Hyderabad, to the extent of petitioners.

Consequently, the Writ Petition is allowed and matter is remanded to the Tribunal for consideration afresh with a direction to dispose of the same within a period of three months from the date of receipt of a copy of this order, in the light of the above observations. No order as to costs.

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T.MEENA KUMARI, J.

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G.CHANDRAIAH, J.

November 12, 2007
MAS